

AUSTIN CITY COUNCIL
AGENDA

Thursday, May 25, 2006

 Back

#53

**Watershed Protection and Development Review
RECOMMENDATION FOR COUNCIL ACTION**

Subject: Approve an ordinance waiving the development regulations of Ordinance No. 20060309-058 to allow the construction of a duplex residence at 505 Deep Eddy Avenue. (Not recommended by staff).

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

Additional Backup Material

(click to open)

☐ Back UP☐ Back Up 2

For More Information: Sylvia Benavidez, 974-2522; Joi Harden, 974-3345

On March 9, 2006 the City Council adopted Ordinance 20060309-058 establishing development regulations applicable to certain building permits for single-family, single family attached, two-family, secondary apartment, and duplex structures in areas of the City that were subdivided prior to March 1974. Pursuant to Part 4 Section (C) of Ordinance No. 20060309-58, to obtain a building permit to construct single-family, single family attached, two-family, secondary apartment, and duplex structures on a lot where a structure has been or will be demolished or relocated, the new structure's size is limited to the greater of the following:

- (a) 0.4 to 1 floor-to-area ratio;
- (b) 2,500 square feet; or
- (c) 20 percent more square feet than the existing or pre-existing structure.

This ordinance includes a provision which allows City Council to waive the development limitations if the Council determines that the development regulations impose an undue hardship on the applicant, the development proposed by the applicant will not adversely affect public health, safety and welfare, and waiving the regulations will not have a substantially adverse impact on neighboring properties.

Applicants Mr. Pete Fajkowski and Mr. Mike Morales are requesting a waiver from Ordinance No. 20060309-058 in order to construct a duplex at 505 Deep Eddy. The two story structure will have 3825 square feet of gross floor area. The proposed development exceeds the floor to area ratio and square footage limitations under Ordinance No. 20060309-058. The proposed development would comply with all other zoning regulations, including building and impervious cover limitations as well as height requirements.

Staff recommends disapproval of the waiver request because no hardship has been found.

WAIVER REQUEST STAFF REPORT

PERMIT NUMBER: BP-06-3753R

COUNCIL DATE: May 18, 2006

APPLICATION DATE: April 18, 2006

OWNER: Pete Fajkowski and Mike Morales

ADDRESS: 505 Deep Eddy

BACKGROUND

On March 9, 2006 the City Council adopted Ordinance 20060309-058 establishing development regulations applicable to certain building permits for single-family, single family attached, two-family, secondary apartment, and duplex structures in areas of the City that were subdivided prior to March 1974.

TIMELINE

- A remodel permit was issued for this property on 11/1/2005 (#05020701) to remodel the first floor and add an addition to the second floor. As indicated on the permit, the work was to be done to the house that had been relocated from 3221 Gilbert.
- According to testimony by the developer of the property at the Zoning and Platting Commission meeting on 3/21/2006, the structure that had been relocated from 3221 Gilbert was entirely demolished, and a new structure was built in its place without a demolition permit or a permit for new construction.
- The property was sold on 4/5/2006.
- On 4/7/2006, Watershed Protection and Development Review Department issued a stop work order for the property and requested that the owner obtain a demolition permit as well as a new building permit.
- On 4/12/2006, a new construction permit application was submitted by the new property owners. Permit is subject to single family development regulations.
- The owners are currently pursuing two tracks to come into compliance with their intended use. The owners have filed for a zoning change from SF-3 to NO. If the zoning request is not granted, the owners are requesting a Council waiver from FAR restrictions and two Board of Adjustment variances to increase the maximum number of employees permitted in a home occupancy use from 1 to 6 and to increase impervious cover from 45% to 70% for employee parking.

APPLICATION

On April 18, 2006, the applicant submitted an application for a waiver from Part 4 Section C of Ordinance 20060309-058 that limits construction of a new single family or duplex residence on a lot where a structure has been or will be demolished or relocated to the greater of:

- (a) 0.4 to 1 floor-to-area ratio;
- (b) 2,500 square feet; or
- (c) 20 percent more square feet than the existing or pre-existing structure.

DEVELOPMENT REGULATIONS

The proposed development requires the applicant to request a Council Waiver because it creates a structure that exceeds all three size limitations set forth in Part 4(C) of the ordinance:

- (a) 0.4 to 1 FAR would allow 3048.8 s.f.
 - Proposed structure creates 3825 s.f. on 7622 s.f. lot, which equates to a 0.5 FAR.
- (b) Proposed structure will exceed 2500 s.f. by 1325 s.f.
- (c) An application for a demolition permit has been filed with the Historic Preservation Office to demolish 2600 s.f. single family residence
 - Ordinance allows for 20 percent increase over previous structure size
 - $2600 \text{ s.f.} + 520 \text{ s.f. (20 percent)} = 3120 \text{ s.f. maximum size allowed}$
 - $\text{Proposed } 3825 \text{ s.f.} - 3120 \text{ s.f.} = 705 \text{ s.f. over maximum allowed}$

SETBACKS

Existing Setbacks of Lots running North from Deep Eddy

513 Deep Eddy	Vacant Lot
511 Deep Eddy	26.5 s.f.
509 Deep Eddy	Vacant Lot
507 Deep Eddy	33.44 s.f.
505 Deep Eddy	27 s.f. (minimum setback allowed)

SETBACKS CALCULATIONS

Under Part 5, Section D (3) of Ordinance 20060309-058, the setback for the proposed duplex is figured thusly:

- (a) Minimum front yard setback is equal to the average of the min front yard setback of the principal structures on the two lots minus ten percent of the distance of that average.
 - $26.5 + 33.44 = 59.94 / 2 = 29.97 - 2.997 = 26.9 \text{ (27) minimum setback}$
- (b) Maximum front yard setback is equal the average of the minimum front yard setback of the principal structures on the two lots plus ten percent of the distance of that average.
 - $26.5 + 33.44 = 59.94 / 2 = 29.97 + 2.997 = 32.96 \text{ (33) maximum setback}$

PROPOSED DEVELOPMENT

Applicant proposes the following construction:

- Proposed front setback of 27 s.f.
- Construct a new 3825 s.f. duplex at 505 Deep Eddy.
- Demolish two uninhabitable structures of, respectively, 478 s.f. and 472 s.f. (demo application filed concurrently with waiver application)

Applicant proposes additional construction:

- 235 s.f. 1st floor covered patio
- 92 s.f. 1st floor covered porch
- 92 s.f. 2nd floor covered porch (included in gross square footage number above)
- 629 s.f. attached garages
- 385 s.f. driveway area

ZONING

- This lot is currently zoned Single Family Residential (SF-3).
- Zoning case scheduled for City Council May 18, 2006 to change from SF-3 to NO
- Board of Adjustment case scheduled for June 12, 2006 to increase the number of employees allowed in a home occupancy use from 1 to 6 and to increase the impervious cover from 45% to 70% to allow parking for employees.
- Lot lies within the West Austin Neighborhood Group and the Austin Neighborhoods Council.

WAIVER

The applicant requests the waiver under Part 4, Section D (1) on the following grounds:

- The regulations imposes undue hardship on the applicant, the development proposed by the applicant will not adversely affect the public health, safety and welfare and waiving the regulation will not have a substantially adverse impact on neighboring properties.

STAFF ASSESSMENT

The information submitted with the applicant's waiver application can be summarized as follows:

- Letter from P.E. stating development will not cause additional impacts to the existing drainage system based on current zoning regulations.
- Photos from the neighborhood submitted as evidence of compatibility with existing structures.
- Letter of support from 507 Deep Eddy.

STAFF RECOMMENDATION: DENIAL.

Staff recommends denial of the waiver request because no hardship has been found.

**CITY OF AUSTIN
REQUEST TO WAIVE INTERIM DEVELOPMENT REGULATIONS
UNDER ORDINANCE NUMBER 2060216-043**

STREET ADDRESS 505 DEEP EDDY AVE.
LEGAL DESCRIPTION, Subdivision JOHNSON CHARLES ADDN.
Lot(s) 5 Block 5 Outlot _____ Division _____
Zoning District _____ Neighborhood Plan (if applicable) _____

Type of work to be done (Select appropriate option and provide description of the proposed project):
☒ New Construction DUPLEX
☐ Addition _____

Please select one of the following:

☒ 1. I request a waiver to the interim development regulations because the regulations impose an undue hardship as described below: _____

If you select Option 1, you must select one of the following:

_____ The granting of this waiver will not adversely affect the public health, safety and welfare.

Explain: see attached

-or-

_____ I am proposing to mitigate the effect of the redevelopment by providing adequate safeguards which will adequately protect the health, safety and welfare of the public.

Explain: _____

_____ 2. The following development agreement permits the activity: _____

_____ 3. I have acquired a right under Texas Local Government Chapter 245 (Assurance of Local Permits), or have a common law vested right that has been fully adjudicated by a court of competent jurisdiction. Please specify and provide supporting documentation: _____

_____ 4. I am providing appropriate drainage facilities. Explain: _____

ALL APPLICATIONS MUST BE ACCOMPANIED BY A RESIDENTIAL PERMIT APPLICATION

Signature of applicant, owner: [Signature]

Note: The waiver application will be considered incomplete if the applicant fails to provide information requested in this application. Please attach any additional information that will support your request, such as photos, architectural drawings, letters of support from neighbors or additional documentation.

FOR STAFF USE

Date waiver application filed with City of Austin: _____

Date scheduled for City Council action: _____

Signature of applicant/owners: _____

Miguel A. Morales

FOR STAFF USE

Date waiver application filed with City of Austin: _____

Date scheduled for City Council action: _____

City of Austin
Request to Waive Interim Development Regulations
Under Ordinance No. 2060216-043

Street Address: 505 Deep Eddy
Legal Description: Lot 5, Block 5, Johnson Charles Addn.
Zoning District: SF-3 **Neighborhood Plan:** N/A

Type of work to be done: New Construction - duplex

We request a waiver to the interim development regulations because the regulations impose an undue hardship as described below:

The original owner of this structure failed to obtain the proper demolition and new construction permits. He built this structure under a remodel permit. The structure was built and city inspections were conducted. The owner assured us that the remodel permit was valid because the original foundation had not been removed. Only the final inspections are left to complete the work.

The property was purchased by us on April 5, 2006. Two days after purchasing the duplex, the City informed us that all work must stop because the previous owner was working under the wrong permit. We are now attempting to remedy the issues but have been advised by City staff that we must comply with the interim regulations. The interim regulations require the size of the structure to meet a FAR of 0.4 to 1, which would calculate to a maximum of 3,049 square feet of gross floor area as defined in the interim regulations. The current structure is 3,825 square feet of gross floor area, which is a FAR of .5 or 776 square feet more than the interim regulations allow.

There are only two other houses on this block. One house has a front setback of 26.5 feet, the other has a front setback of 33.44 feet. Our structure has a setback of 27 feet. This setback meets the setback requirements of the interim regulations.

We intend to use this structure as a home occupancy use. We currently have our offices in lease space which we must vacate at the end of April. We provide mortgage services to customers throughout the country. If we are unable to move into this structure, we will have nowhere to operate our business. This will affect our clients who depend on us to provide service to them.

We purchased this house in good faith and need to move expeditiously to get into the house to avoid serious and costly affects on our business and our customers.

The granting of this waiver will not adversely affect the public health, safety and welfare. The impervious cover for this duplex is 41% which is below the maximum limit of 45% for SF-3 zoning. The lot slopes toward the street and will not create run-off to the neighbors to the north.

CITY OF AUSTIN RESIDENTIAL PERMIT APPLICATION

BP Number	<u>BP-06-3753R</u>		
Building Permit No.	_____		
Plat No.	<u>94</u>	Date	<u>4/12/2006</u>
Reviewer	_____		

PRIMARY PROJECT DATA

Service Address <u>505 Deep Eddy Avenue</u>	Tax Parcel No. <u>1100607090000</u>
Legal Description Lot <u>5</u> Block <u>5</u> Subdivision <u>Johnson Charles Addn</u> Section _____ Phase _____	
If in a Planned Unit Development, provide Name and Case No. _____ <i>(attach final approved copies of subdivision and site plan)</i>	
<i>If this site is not a legally subdivided lot, you must contact the Development Assistance Center for a Land Status Determination.</i>	
Description of Work <input type="checkbox"/> New Residence <input checked="" type="checkbox"/> Duplex <input type="checkbox"/> Garage <input type="checkbox"/> attached <input type="checkbox"/> detached <input type="checkbox"/> Carport <input type="checkbox"/> attached <input type="checkbox"/> detached <input type="checkbox"/> Pool	<input type="checkbox"/> Remodel (specify) _____ <input type="checkbox"/> Addition (specify) _____ <input type="checkbox"/> Other (specify) _____
Zoning (e.g. SF-1, SF-2...) <u>SF-3</u>	Height of building <u>30</u> ft. # of floors <u>2</u>
On lots with LA zoning, the approved septic permit must be submitted with the Residential Permit application for zoning approval. (LDC 25-2-551(B)(6))	
Does this site have a Board of Adjustment ruling? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach the B.O.A. documentation	
Will this development require a cut and fill in excess of 4 feet? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Does this site front a paved street? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No A paved alley? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

VALUATIONS FOR REMODELS ONLY

Building	\$ _____
Electrical	\$ _____
Mechanical	\$ _____
Plumbing	\$ _____
Driveway	\$ _____
& Sidewalk	\$ _____
TOTAL	\$ _____
<i>(Labor and materials)</i>	

DATA FOR NEW CONSTRUCTION OR ADDITIONS ONLY

Lot Size	<u>7622</u> sq. ft.
Job Valuation	\$ <u>58,000</u>
<i>(Labor and materials)</i>	
Total Job Valuation (remodels and additions)	\$ _____
<i>(Labor and materials)</i>	

PERMIT FEES *(For office use only)*

	NEW/ADDITIONS	REMODELS
Building	\$ _____	\$ _____
Electrical	\$ _____	\$ _____
Mechanical	\$ _____	\$ _____
Plumbing	\$ _____	\$ _____
Driveway	\$ _____	\$ _____
& Sidewalk	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____

OWNER / BUILDER INFORMATION

OWNER	Name <u>Pete Fajkowski and Mike Morales</u>	Telephone (h) _____ (w) <u>477-7116</u>
BUILDER	Company Name _____	Telephone <u>627-1678</u>
	Contact/Applicant's Name <u>Monty Janssen</u>	Pager _____
DRIVEWAY /SIDEWALK	Contractor _____	FAX _____
		Telephone _____
CERTIFICATE OF OCCUPANCY	Name <u>Pete Fajkowski and Mike Morales</u>	Telephone _____
	Address <u>505 Deep Eddy Ave.</u>	City <u>Austin</u> ST <u>Tx</u> ZIP <u>78703</u>

If you would like to be notified when your application is approved, please select the method:

☒ telephone Please call agent, Luci Gallahan, at 791-6439

You may check the status of this application at www.ci.austin.tx.us/development/picerv.htm

Service Address 505 Deep Eddy

Owner's Signature

Date

BUILDING COVERAGE

The area of a lot covered by buildings or roofed areas, but not including (i) incidental projecting eaves and similar features, or (ii) ground level paving, landscaping, or open recreational facilities.

	Existing	New / Addition
a. 1 st floor conditioned area	sq.ft.	sq.ft.
b. 2 nd floor conditioned area	sq.ft.	sq.ft.
c. 3 rd floor conditioned area	sq.ft.	sq.ft.
d. Basement	sq.ft.	sq.ft.
e. Garage / Carport		
X attached	sq.ft.	sq.ft.
detached	sq.ft.	sq.ft.
f. Wood decks (must be counted at 100%)	sq.ft.	sq.ft.
g. Breezeways	sq.ft.	sq.ft.
h. Covered patios	sq.ft.	sq.ft.
i. Covered porches	sq.ft.	sq.ft.
j. Balconies 2nd fl. covd	sq.ft.	sq.ft.
k. Swimming pool(s) (pool surface area(s))	sq.ft.	sq.ft.
l. Other building or covered area(s)	sq.ft.	sq.ft.
Specify		

TOTAL BUILDING AREA (add a. through l.) sq.ft.

TOTAL BUILDING COVERAGE ON LOT (subtract b., c., d., and l. if applicable) sq.ft. % of lot

IMPERVIOUS COVERAGE

Include building cover and sidewalks, driveways, uncovered patios, decks, air conditioning equipment pad, and other improvements in calculating impervious cover. Roof overhangs which do not exceed two feet or which are used for solar screening are not included in building coverage or impervious coverage. All water must drain away from buildings on this site and buildings on adjacent lots.

a. Total building coverage on lot (see above)	sq.ft.
b. Driveway area on private property	sq.ft.
c. Sidewalk / walkways on private property	sq.ft.
d. Uncovered patios	sq.ft.
e. Uncovered wood decks (may be counted at 50%)	sq.ft.
f. Air conditioner pads	sq.ft.
g. Concrete decks	sq.ft.
h. Other (specify)	sq.ft.

TOTAL IMPERVIOUS COVERAGE (add a. through h.) sq.ft. % of lot

CITY OF AUSTIN
RESIDENTIAL PERMIT APPLICATION

I understand that in accordance with Sections 25-1-411 and 25-11-66 of the Land Development Code (LDC), non-compliance with the LDC may be cause for the Building Official to suspend or revoke a permit and/or license. I understand that I am responsible for complying with any subdivision notes, deed restrictions, restrictive covenants and/or zoning conditional overlays prohibiting certain uses and/or requiring certain development restrictions (i.e., height, access, screening, etc.) on this property. If a conflict should result with any of these restrictions, it will be my responsibility to resolve it. I understand that, if requested, I must provide copies of all subdivision plat notes, deed restrictions, restrictive covenants, and/or zoning conditional overlay information that may apply to this property.

I acknowledge that this project qualifies for the Site Plan Exemption as listed in Section 25-5-2 of the LDC.

I also understand that if there are any trees greater than 19 inches in diameter located on the property and immediately adjacent to the proposed construction, I am to schedule a Tree Ordinance review by contacting (512) 974-1876 and receive approval to proceed.

I agree that this application will expire on the 181st day after the date that the application is filed if the application is not approved and an extension is not granted. If the application expires, a new submittal will be required.

APPLICANT'S SIGNATURE *John D. Holloman* DATE 4/12/06

HOME BUILDER'S STATE REGISTRATION NUMBER (required for all new construction) _____

- Section Notes/Additional Comments (for office use only):

3825 GEA

Kramer Service Center
2412 Kramer Lane, Bldg. "C"
Austin, Texas 78738
(512) 900-7206



Austin Energy
Electric Service Planning Application (ESPA)
(Please Print or Type)

St. Elmo Service Center
4111-B Menardus Drive
Austin, Texas 78744
(512) 505-7500

For Residential or Small Commercial "SERVICE ONLY" under 350 amps 1Ø or 225 amps 3Ø

Customer Name	<u>LUCI GALLAHAN</u>	Phone	<u>791-6439</u>
Address	<u>505 DEEP EDDY AVE.</u>		
Legal Description	<u>JOHNSON CHARLES ADDN</u>		
Lot	<u>5</u>	Block	<u>5</u> Commercial/Residential? <u>RES</u>

Service Main Size	_____ (amps)	Service Conductor	_____ (type & size)
Service Length	_____ (ft.)	Number of Meters?	<u>1</u> Multi-Fuel Y N
<input checked="" type="radio"/> Overhead/Underground?	_____	Voltage	<u>20/240</u> <input checked="" type="checkbox"/> Single-phase (1Ø) <input type="checkbox"/> Three-phase (3Ø)
Total Square Footage	_____	Total A/C Load	_____ (# of units) _____ (Tons)
Largest A/C unit	_____ (Tons)	LRA of Largest A/C Unit	_____ (amps)
Electric Heating	_____ (kW)	Other	_____ (kW)

Comments: New Service | Electrician to pull permit

ESPA Completed by (Signature & Print name) _____

Date _____

Phone _____

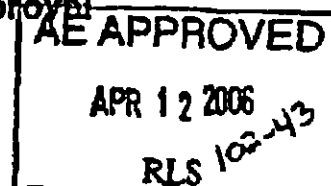
AE Representative _____

Date _____

Approved: ☒ Yes ☐ No (Remarks on back)

Phone _____

Application expires 90 days after date of Approval



** CITY OF AUSTIN GIS QUERY REPORT

** Mon Apr 17 11:53:12 2006

AREA:
7198.11 square feet

JURISDICTION:
141--FULL PURPOSE

LAND STATUS:
ID -- 20044 , CaseNum -- N/A , OrdNum -- N/A, Acres--27974.1
Description--AUSTIN CITY LIMITS,
Type--FULL, Date--nil
ID -- 20559 , CaseNum -- , OrdNum -- , Acres--18581.6
Description--FULL PURPOSE ON OR BEFORE 03/14/1946,
Type--FULL, Date--19460314

WATERSHED:
33--JOHNSON CREEK

FLOOD PLAIN:
2147--

NCDS:

BCWO:
Ddz--DEVELOP

WATER REGULATION:
ID--2, Water Type--REG, Water Name--URBAN

NEIGHBORHOOD ASSOCIATION:
88--West Austin Neighborhood Group
511--Austin Neighborhoods Council
742--Austin Independent School District

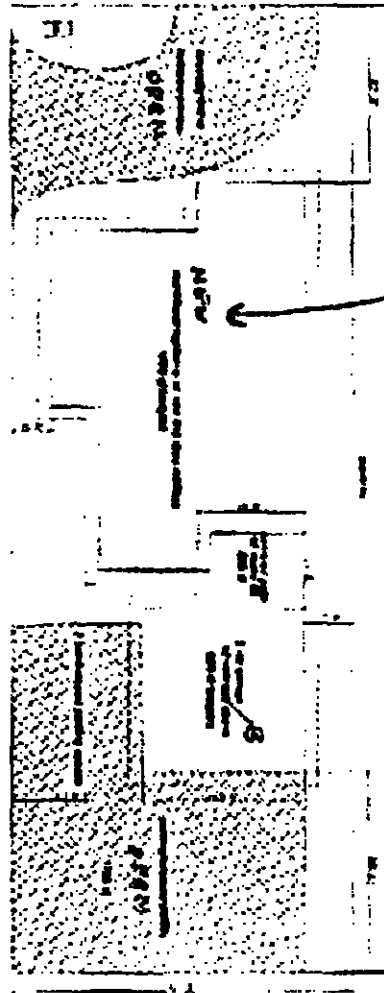
ZONING:
1.94078e+006--RON
1.94158e+006--SF-3

ZONING OVERLAYS:
OVERLAY NAME -- SUB NAME
SCENIC ROADWAYS--LAKE AUSTIN BOULEVARD

DEVELOPMENT AGREEMENTS:

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Watershed Protection & Development Review,
City of Austin |

505 DEEP EDDY SITE PLAN



Did we do this?

AE APPROVED
APR 12 2006
RLS 102-43

505 deep eddy site plan

APR 11, 2006

APR 11, 2006

APR 11, 2006

APR 11, 2006

APR 11, 2006

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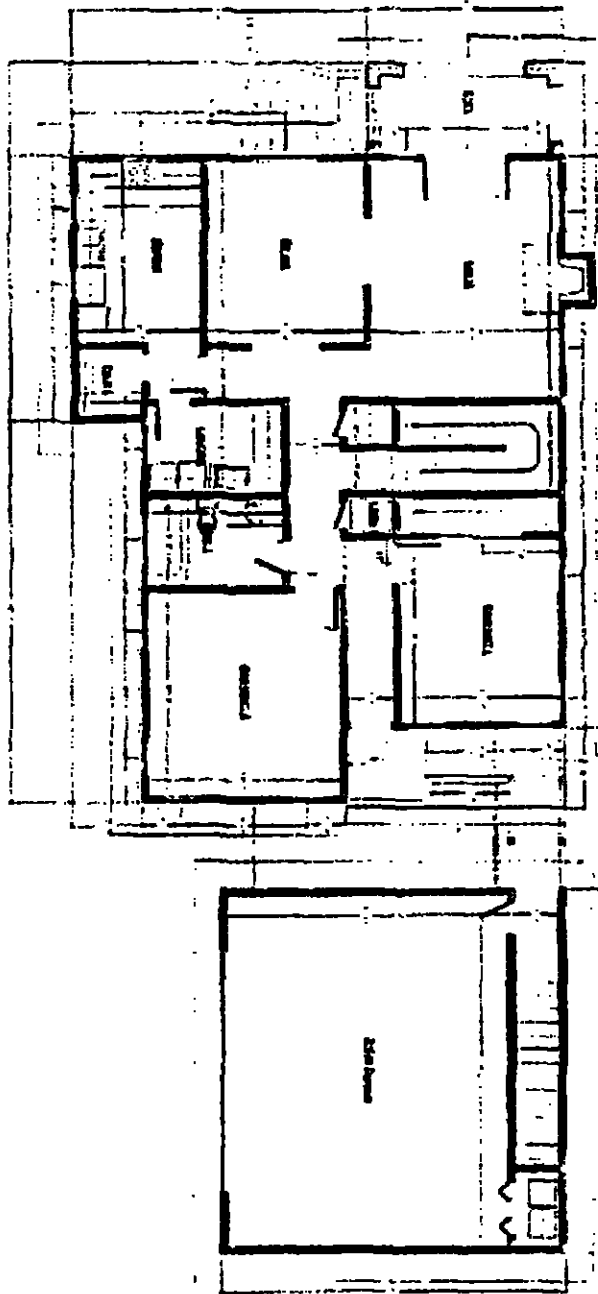
APR 11, 2006

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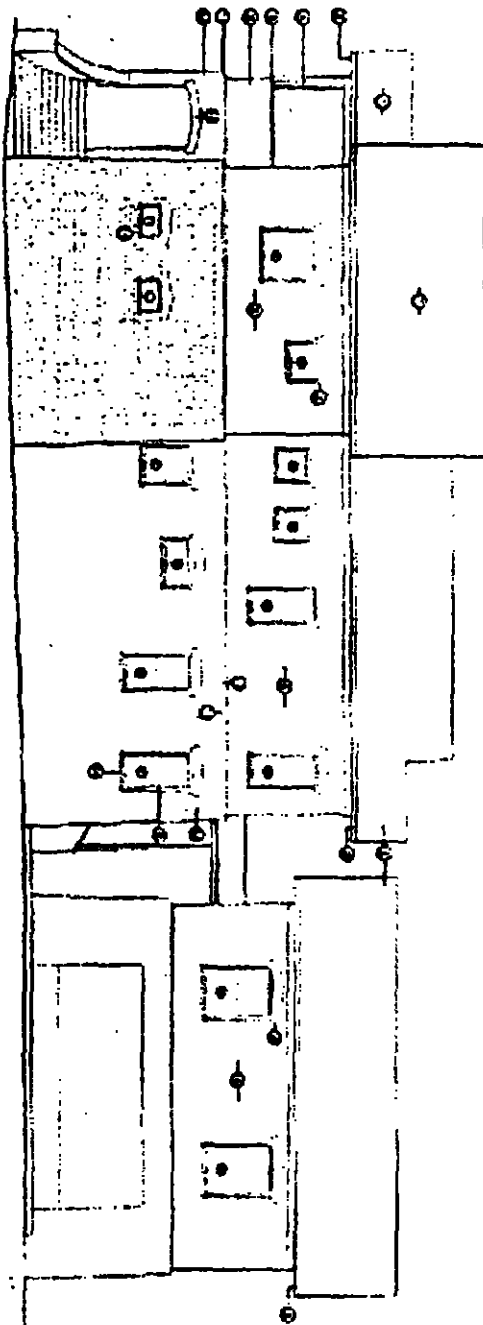


1 1st Floor Plan
Scale 1/8" = 1'-0"

Scale 1/8" = 1'-0"

A1.2	Project No. 11-1204 Date 10-1-00 Drawn by J. J. J.	505 Deep Eddy	10-1-00 10-1-00 10-1-00 10-1-00
		MGE Development	

॥ श्रीगणेशाय नमः ॥



South Elevation
505 Deep Eddy

Architect: D.A.

1. Carpenter Storage Room
2. Barns located over driveway
3. Gate House with Section for Carriage Drive
4. Carriage Room
5. Car Barn at Top of Hill
6. Section of House at Hill

7. Section of House at Hill
8. Section of House at Hill
9. Section of House at Hill
10. Section of House at Hill
11. Section of House at Hill
12. Section of House at Hill
13. Section of House at Hill
14. Section of House at Hill

Scale: 1/4" = 1'-0"

10/1/10

505 Deep Eddy

NCE Development

30-1 for 10/1/10
Architect: D.A.
10/1/10
10/1/10
10/1/10

A2.1

**SUPPLEMENTAL INFORMATION
SUBMITTED BY APPLICANT
APRIL 18, 2006**



7500 Hwy 71 West Suite 100
Austin, TX 78735

(512) 331-3389 (D)
(512) 331-3348 (F)

April 21, 2006

Director
Watershed Protection and Development Review Department
505 Barton Springs Road
Austin, TX 78703

RE: Engineer's Drainage Certification
585 Deep Eddy
Austin, TX

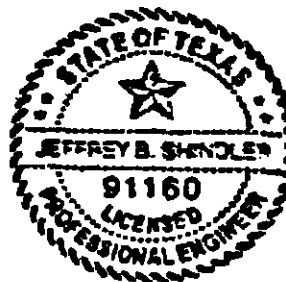
To Whom It May Concern:

I certify that I have personally conducted a topographic review and field investigation of the existing and proposed flow patterns for stormwater runoff from the subject lot to Johnson Creek. At build-out conditions allowable by zoning, restrictive covenant or plat note, the stormwater flows from the subject subdivision will not cause any increase in flooding conditions to the interior of existing building structures, including basement areas, for storms of magnitude up through the 100-year event.

Sincerely,



Jeff Shindler, P.E.



RESIDENTIAL/COMMERCIAL
CIVIL & STRUCTURAL ENGINEERING

Aaron W Games, PLLC
Certified Public Accountants & Consultants

April 4, 2006

To Whom It May Concern:

By way of introduction, my name is Aaron W Games, CPA, managing member of Aaron W Games, PLLC, a certified public accounting firm located in northwest Austin, Texas. For the past three years, I have independently audited the financial statements of Outsmart Holdings, LLC ("Outsmart") to accompany their annual filings with the United States Department of Housing and Urban Development ("HUD"). In connection with my audits, I have observed, first hand, the operations, clientele, employees, and offices of

Outsmart profitably serves an affluent client base of approximately 10 % Travis County 90% out-of-town and national borrowers and is in the business of brokering mortgage financing between these borrowers and investors located in various locations throughout the State of Texas and the United States. Contact with these parties is accomplished entirely through telecommunications, email, overnight mail, and courier services as a matter of convenience to the borrowers and to facilitate their demanding schedules.

The scope of my audit work requires an annual visit to Outsmart's office. On no occasion have I noted the presence of a client and on all occasions, both Outsmart's personnel and the general office were well presented and very professional in appearance. Additionally, both the interior and exterior working conditions produced no noise level exceeding that of a conversation between professionals.

In my opinion, the principals and professionals of Outsmart Holdings, LLC are respectable people and good citizens, both corporately and privately. I hope my commentary should provide a favorable light by which you may view both the Company and employees. If you should find it necessary to speak with me, please do not hesitate to call.

Very truly,



Aaron W Games, CPA

Local Phone: 512-258-0535 • Toll Free: 800-758-0535 • Fax: 512-258-2009
13625 Pond Springs Road, Suite 104
Austin, TX 78729

April 21, 2006

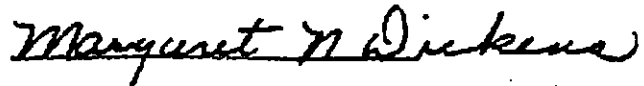
Dear Mayor and Council Members:

We are in support of the waiver request for 505 Deep Eddy to the interim regulations. The house sits between our house at 507 Deep Eddy and the heavy commercial uses on the south side of 505 Deep Eddy. The size of the house is appropriate because it creates a buffer to our home and the rest of the neighborhood from the unpleasantness of the alley and heavy commercial uses.

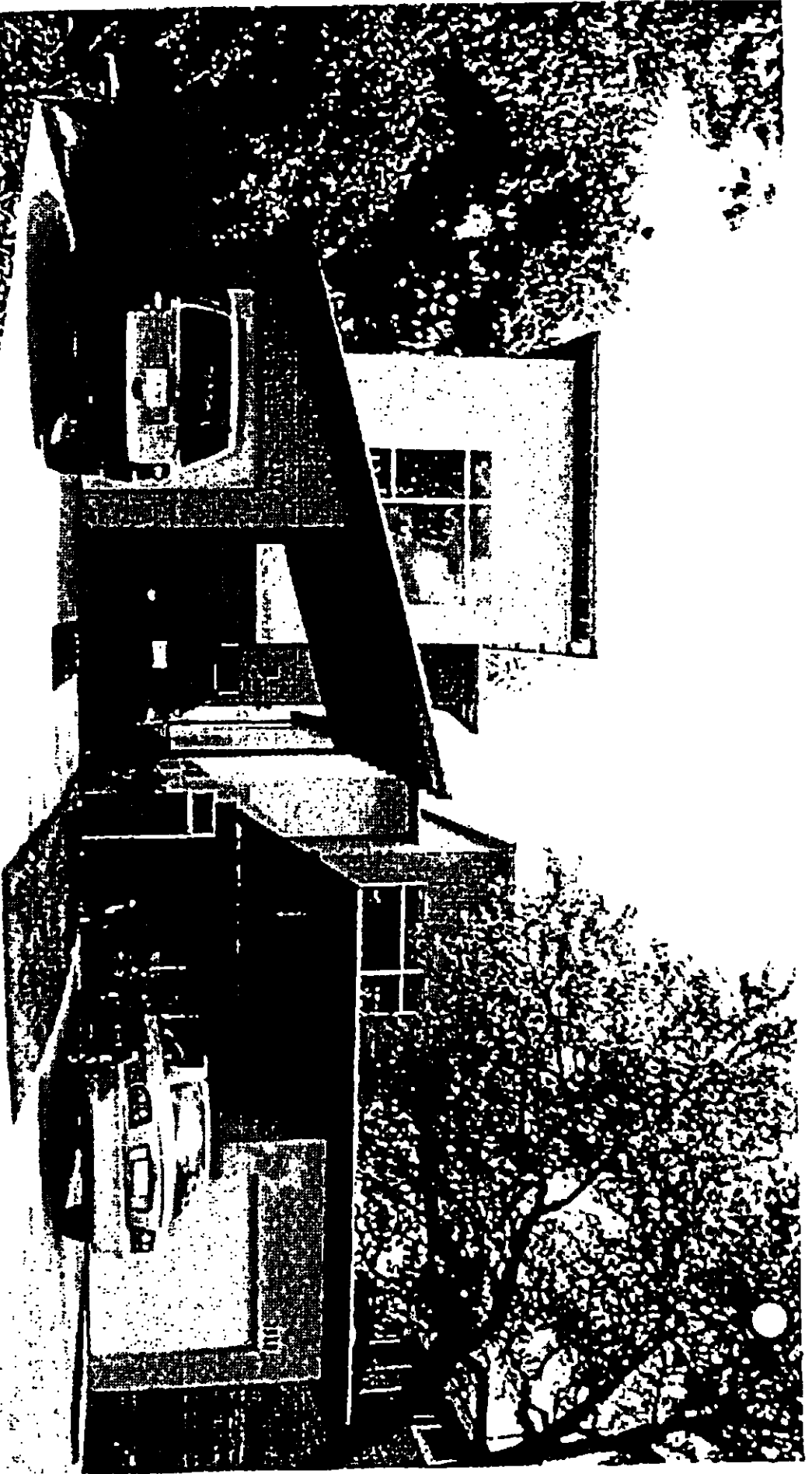
Sincerely,



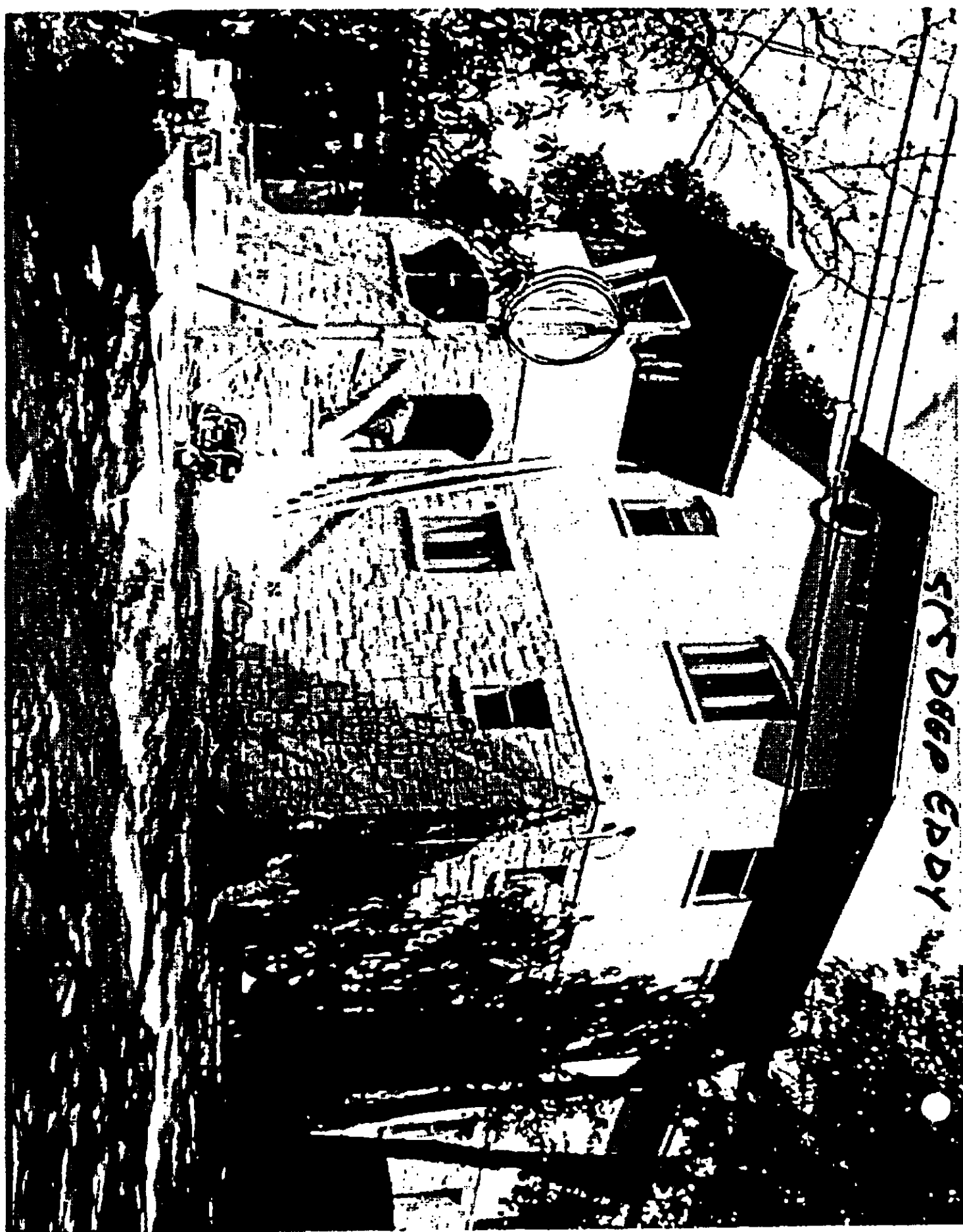
Lewis and Margaret Dickens
507 Deep Eddy Avenue
Austin, Texas 78703



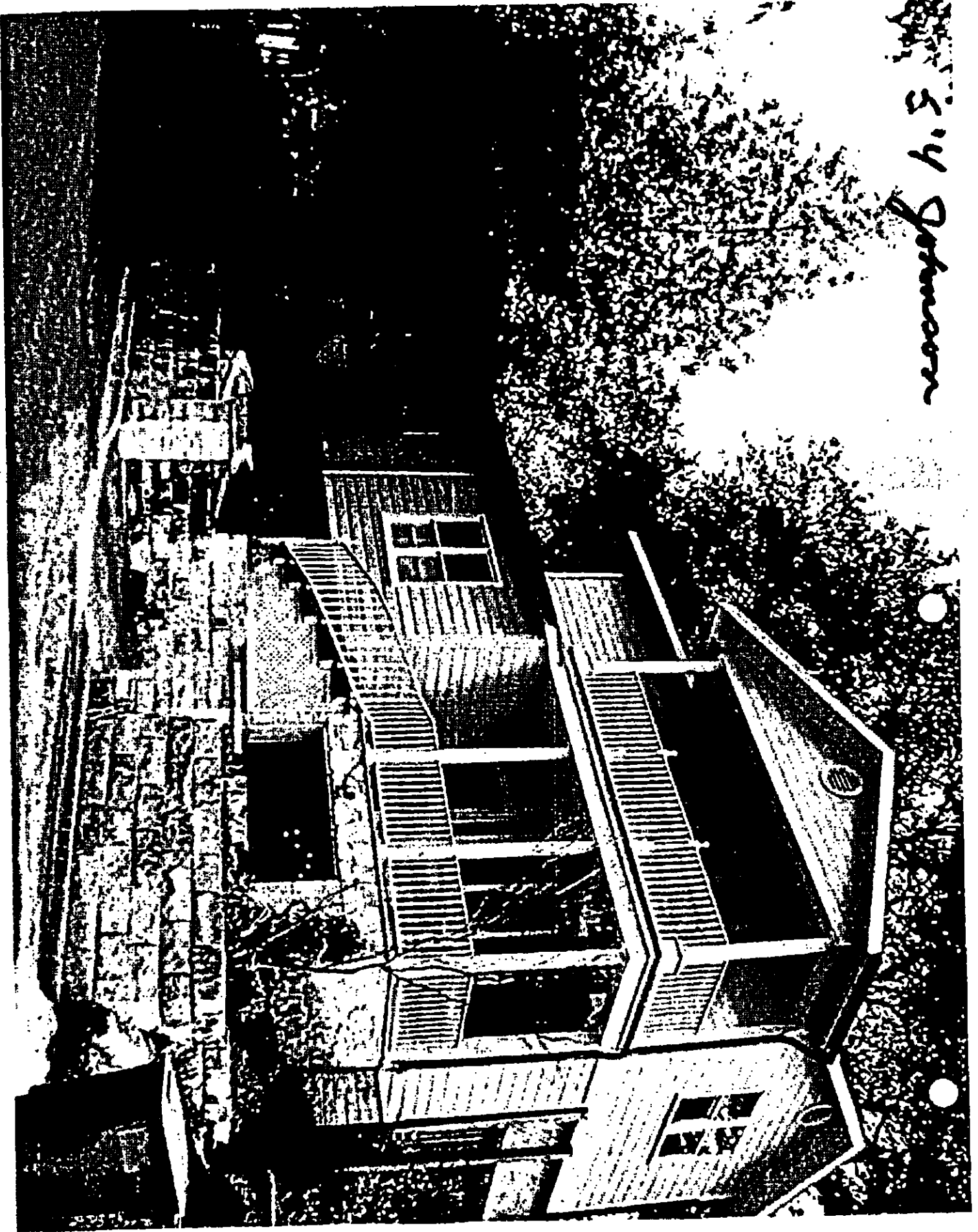
2317 A+B 9th St.







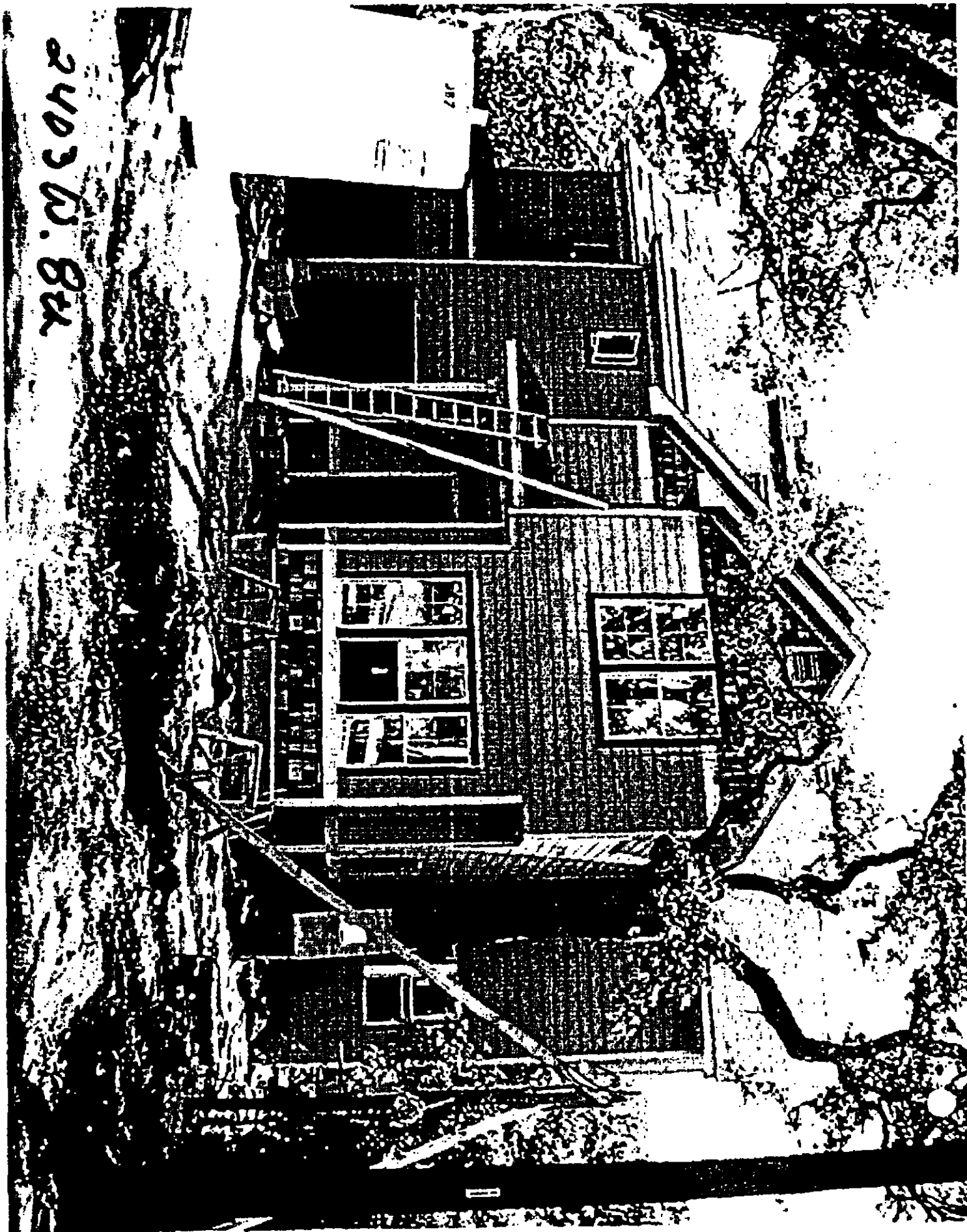
5.4 Johnson



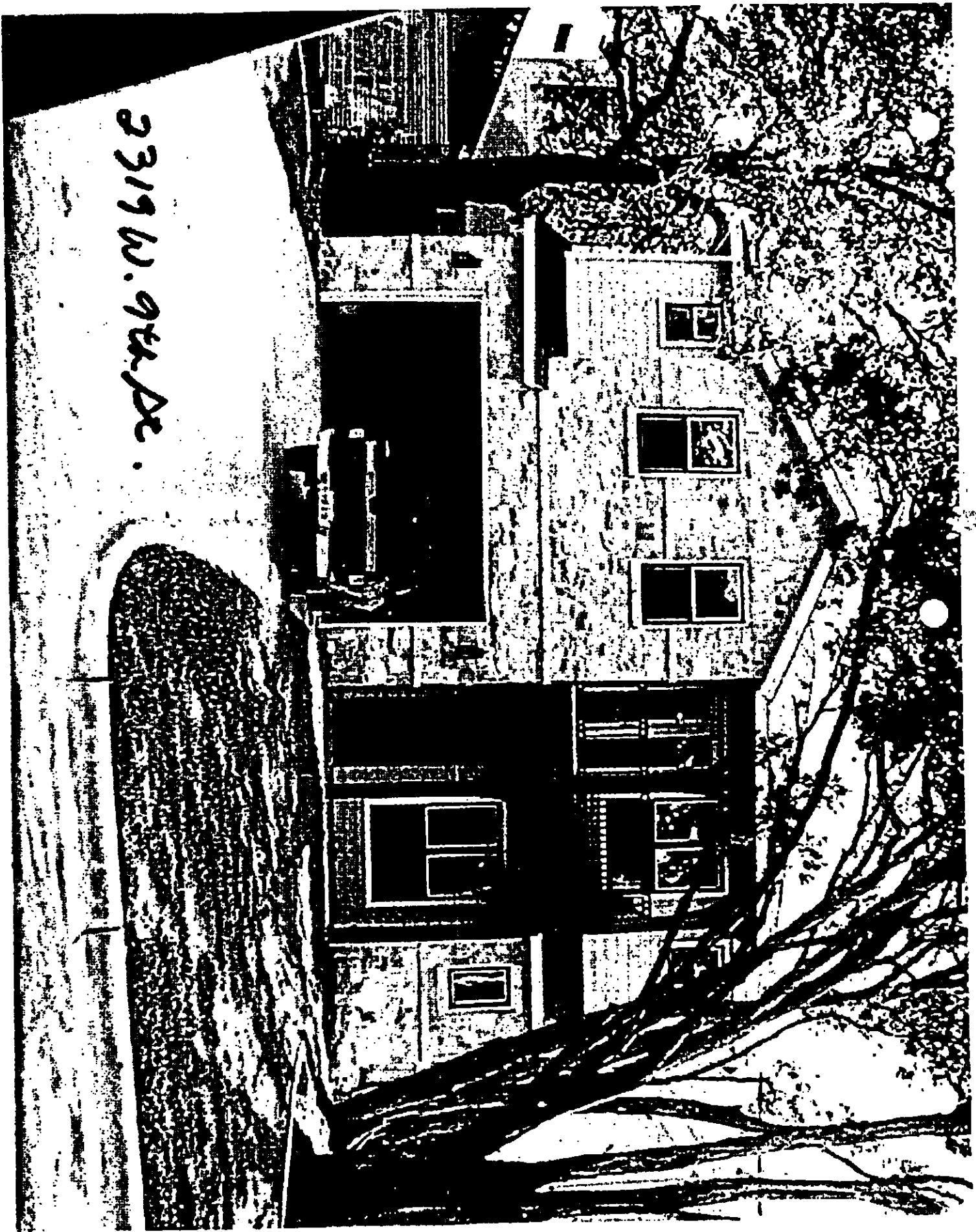


603 HAYBOLSON

2403 W. 8th



2319 W. 9th St.



4/25/2004 8:16 AM

**GENERAL WARRANTY DEED WITH VENDOR'S LIEN
(WITH SUBORDINATE VENDOR'S LIEN)**

THE STATE OF TEXAS

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS

THAT MCC DEVELOPMENT, INC.

hereinafter called "GRANTOR" (whether one or more), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), cash and other good and valuable consideration to GRANTOR in hand paid by, PETER W. FALCOWSKI, A SINGLE PERSON AND MICHAEL A. BOGALUS, A SINGLE PERSON

whose mailing address is 2000 GETTIE BOULEVARD

ARRESTA, TX 78746

hereinafter called "GRANTEE" (whether one or more), the receipt and sufficiency of which are hereby acknowledged, and for the further consideration of the sum paid to GRANTOR by SUBTRUST MORTGAGE, INC.

hereinafter called FIRST-LIEN BENEFICIARY, in the special instance and request of GRANTEE, the receipt and sufficiency of which sum, being in the amount of \$10,000.00, is hereby acknowledged and confessed, and as evidence of such advancement, GRANTEE has executed GRANTEE'S note of even date herewith for such amount payable to the order of FIRST-LIEN BENEFICIARY, said note payable as provided therein, and the payment of said note is secured by a vendor's lien reserved herein and is additionally secured by a deed of trust of even date with said note, executed by GRANTEE to MICHAEL C. BARRETT

TRUSTEE, reference to which deed of trust is hereby made for all purposes, and in consideration of the payment by FIRST-LIEN BENEFICIARY of the sum specified in said deed of trust, GRANTOR hereby assigns, sells, conveys, and conveys unto FIRST-LIEN BENEFICIARY and its assigns a vendor's lien and superior title against and reserved herein against the property and premises conveyed herein in the same manner and to the same extent as if said note had been executed in GRANTOR'S favor and assigned by GRANTOR to FIRST-LIEN BENEFICIARY without reserve, and GRANTOR has GRANTED, SOLD, and CONVEYED, and by these presents does GRANT, SELL, and CONVEY unto said GRANTEE, the following described property, to-wit:

LOT 5, BLOCK 5, CHAS JOHNSON ADDITION, AN ADDITION IN TRAVIS COUNTY, TEXAS,
ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 1, PAGE 162, OF THE PLAT
RECORD OF TRAVIS COUNTY, TEXAS.

TO HAVE AND TO HOLD the above-described premises, together with, all and singular, the rights and appurtenances thereto in anywise belonging unto said GRANTEE and GRANTEE'S heirs and assigns forever. GRANTOR does hereby bind GRANTOR and GRANTOR'S heirs, executors, and administrators to warrant and forever defend, all and singular, the said premises unto the said GRANTEE and GRANTEE'S heirs and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Taxes of every nature for the current year have been paid and are assumed by GRANTEE. This conveyance is made subject to, all and singular, the restrictions, mineral reservations, royalties, easements, and covenants, if any, applicable to and enforceable against the above-described property as reflected by the records of the County Clerk of the aforesaid County.

GRANTOR and GRANTEE also acknowledge the retention of a second, subordinate and separate vendor's lien, and GRANTOR hereby transfers the same to SUBTRUST MORTGAGE, INC. hereinafter called "SECOND-LIEN BENEFICIARY", which lien secures GRANTEE'S certain other note of even date to SECOND-LIEN BENEFICIARY in the amount of \$15,000.00, being further consideration paid to GRANTOR, as more particularly described in deed of trust of even date herewith to MICHAEL C. BARRETT, TRUSTEE. But it is expressly agreed and stipulated that the vendor's lien and superior title are retained in favor of the FIRST-LIEN BENEFICIARY and SECOND-LIEN BENEFICIARY, respectively, against the above described property, premises and improvements, until each of the above respective notes is fully paid according to its terms, when this deed shall become absolute.

When this deed is executed by more than one person, or when the GRANTOR or GRANTEE is more than one person, the instrument shall read as though pertinent verbs and pronouns were changed to correspond; and when executed by or to a corporation, the words "heirs, executors, and administrators" or "heirs and assigns" shall be construed to mean "successors and assigns."

DATED this 5th day of April, 2004
BGE DEVELOPMENT, INC.

BY: [Signature]
NAME: Tom McPherson
TITLE: President

THE STATE OF TEXAS)
COUNTY OF TRAVIS)

(Acknowledgment)

This instrument was acknowledged before me on the 5th day of April, 2004.
by



My commission expires

[Signature]
Notary Public, State of
Printed Name:

THE STATE OF TEXAS)
COUNTY OF)

(Acknowledgment)

This instrument was acknowledged before me on the _____ day of _____,
by

My commission expires

Notary Public, State of
Printed Name:

THE STATE OF TEXAS)
COUNTY OF)

(Acknowledgment)

This instrument was acknowledged before me on the _____ day of _____,
by

My commission expires

Notary Public, State of
Printed Name:

THE STATE OF TEXAS)
COUNTY OF)

(Acknowledgment)

This instrument was acknowledged before me on the _____ day of _____,
by

My commission expires

Notary Public, State of
Printed Name:

THE STATE OF TEXAS)
COUNTY OF)

(Corporate/Entity Acknowledgment)

This instrument was acknowledged before me on the _____ day of _____,
by
of

_____ on behalf of said _____

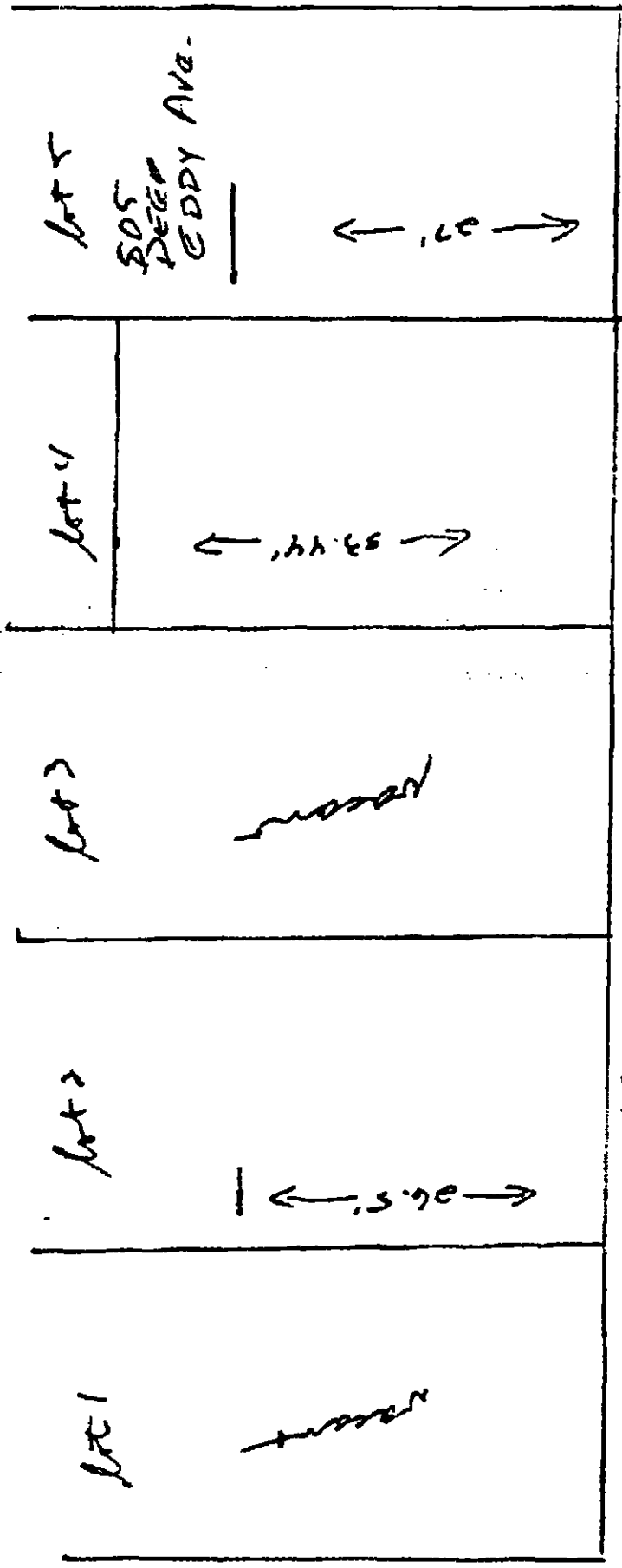
My commission expires

Notary Public, State of
Printed Name:

AFTER RECORDING RETURN TO:
PETER H. FAIRCLOUGH
3000 BETTIE BOULEVARD
ARLINGTON, TX 76010

Re: ONE DEEP SCOT AVENUE, ARLINGTON, TX 76010

SETBACK INFORMATION



lot 1

vacant

lot 2

← 26.5' →

lot 3

vacant

lot 4

← 34.4' →

lot 5

505
DEER
EDDY AVE.

← 27' →

lot 1

lot 2

lot 3

lot 4

lot 5

petroleum

**BOARD OF ADJUSTMENT
APPLICATION FILED MARCH 30, 2006**

CASE # C15-06-065
TP # 0110060709

**CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE**

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 505 Deep Eddy

LEGAL DESCRIPTION: Subdivision - Johnson Charles Addn.
Lot(s) 5 Block 5 Outlot Division

I/We Luci Gallahan on behalf of myself/ourselves as authorized agent for

Pete Faikowaki and Miguel Morales affirm that on March 30, 2006,

hereby apply for a hearing before the Board of Adjustment for consideration to:

ERECT - ATTACH - COMPLETE - REMODEL - MAINTAIN

Maintain a duplex use with Home Occupation as an accessory use. A variance to increase the number of employees allowed from one to six (25-2-900C). A variance to increase the allowed impervious cover from 45% to 70% (25-2-492A) to allow employee parking on site.

in a SF-3 district.
(zoning district)

If your variance request is for a reduction in setbacks or height limits, please contact Christine Esparza with the Electric Utility at 322-6112 before filing your application with this office to discuss your request. The Electric Utility will recommend the board deny your request if it will result in an encroachment into an electric easement or a NESC violation.

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings:

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The Home Occupation regulations allow only one person who does not live in the structure to participate in the home occupation. The home occupation use would comply with all other regulations listed in 25-2-900 Home Occupations. The impervious cover limit for SF-3 of 45% does not allow the homeowner to ensure off-street parking for his employees.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

The hardship is unique to the property because of the proximity to multiple commercial uses. The location has commercial use on 2 sides of this property. There is a commercial office building directly across the street. There is a gas station adjacent to the office building. On the south side of this site are 2 commercial buildings with multiple tenants and 2 restaurant uses. The rear of all this commercial use is separated by an unfenced alley that abuts this site and is in constant use by delivery trucks and other traffic. The noise, smell, and traffic makes this property undesirable for use as a family dwelling.

- (b) The hardship is not general to the area in which the property is located because:

No other lot in this area has multiple commercial uses on two sides. No other site has the inconveniences that come with commercial use such as delivery vehicles, customer traffic, multiple dumpsters sitting on the alley and the smell and noise associated with dumpsters.

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The variance will not alter the character of the area adjacent to the property because the structure looks like a house. It will never look like an office building, and it will not have

heavy customer-related traffic. The employees will not use the neighborhood streets to gain access to the site. The interior of the house has all the elements of a home including full kitchen, full bathrooms with tubs, and laundry facilities. The additional impervious cover will not adversely affect the neighbor to the north as the lot slopes towards the street.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:
-

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:
-

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:
-

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:
-

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 8617 Sunset Dr.
City, State & Zip Austin, Tex.

Printed LUCI GALLAHAN Phone 7916439 Date 4/3/06

OWNER'S CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 505 Deep Eddy Ave
City, State & Zip Austin, Tex. 78703

Printed PETE FAJKAUSKI Phone 477-7116 Date 4/3/06
MIGUEL MORALES

ADDITIONAL INFORMATION TO BE SUBMITTED WITH COMPLETED APPLICATION: (FAILURE TO SUBMIT ALL THE REQUIRED MATERIALS WILL RESULT IN NON-ACCEPTANCE OF THE APPLICATION. LATE BACKUP MATERIAL WILL BE ACCEPTED UNTIL 9:00 A.M. THE TUESDAY PRIOR TO THE MEETING. THERE WILL BE NO EXCEPTIONS.)

SITE PLAN: Must be drawn to scale, showing present and proposed construction and location of existing structures on adjacent lots.

All Sign Review Board cases must submit location and elevation drawings, drawn to scale, in addition to the site plan required.

TAX PLATS: Must show the subject property (clearly marked) and property within a 300 foot radius. These are available from the Document Sales Division at One Texas Center, 505 Barton Springs Road, First Floor, 974-2297, 974-3347 or 974-2213, or from the Tax Dept. at 8314 Cross Park Drive, 834-9138. If property is located in Williamson County we need a list of all property owners and their addresses within a 300 foot radius.

APPLICATION FEES: Residential \$360.00
All Other \$660.00

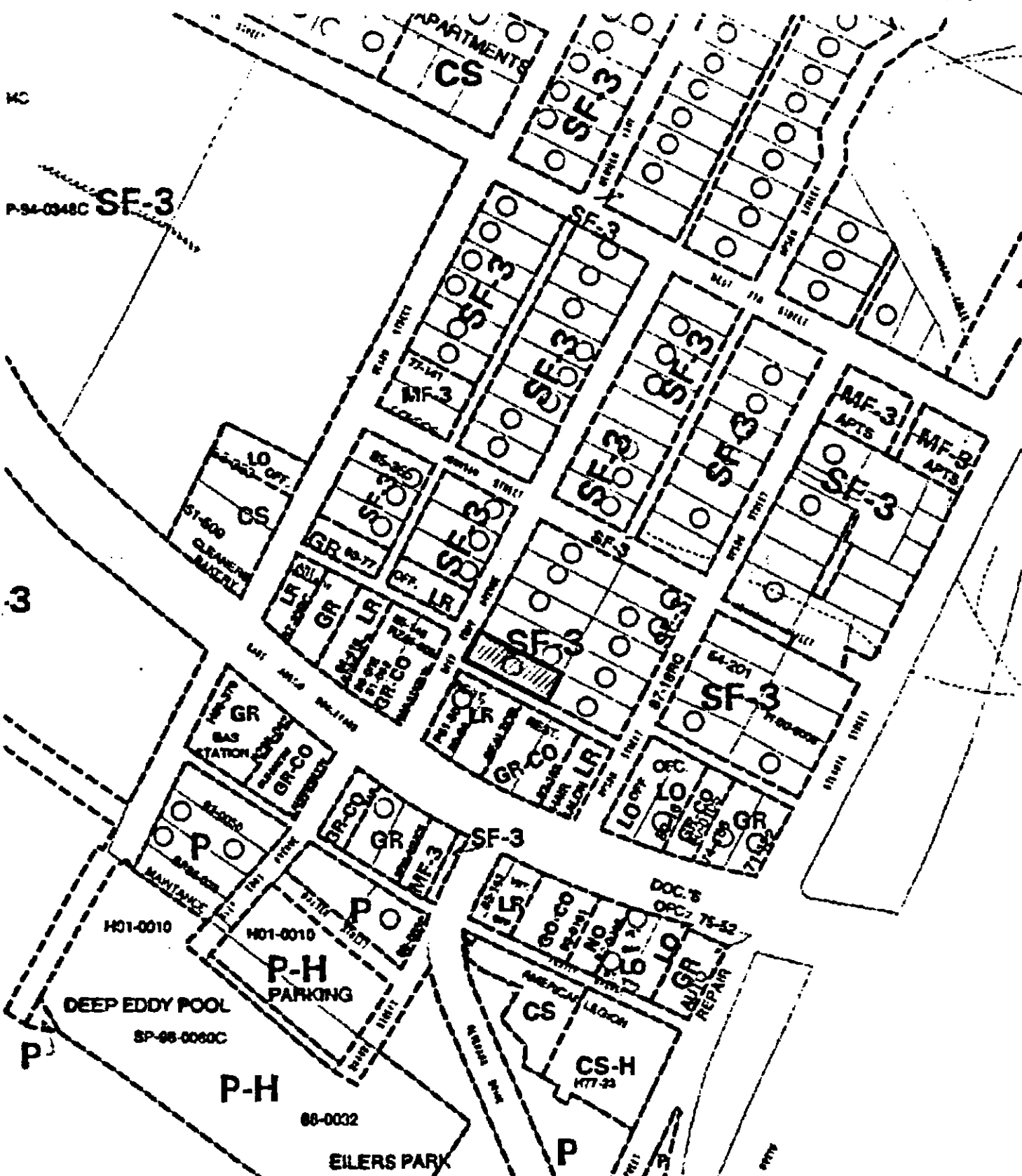
Please be advised that the Board can only hear so many cases a month, therefore, first come, first served.

KC

P-94-0348C

SF-3

3



SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MOR & WALKER

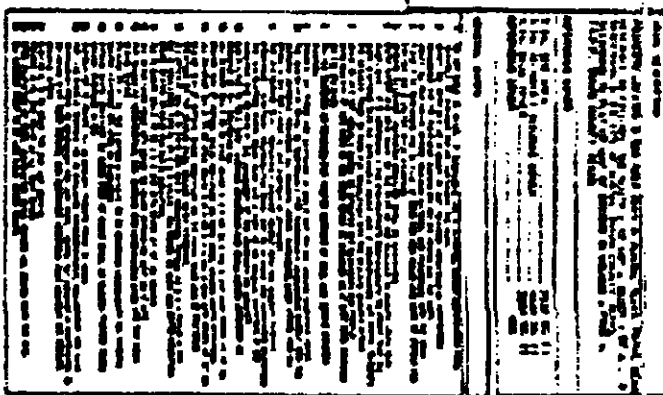


CASE #: C15-06-065
ADDRESS: 805 DEEP EDDY
SUBJECT AREA (FROM): N/A

BOARD OF ADJUSTMENTS

DATE: 06-04
BY: S. SM

CITY GRID
REFERENCE
NUMBER
023



A10

Walker, Susan

From: Stephen Wolff [swolf98@austin.rr.com]
Sent: Monday, May 01, 2006 1:16 PM
To: Walker, Susan
Subject: Statement of Opposition: Case C15-06-65, 505 Deep Eddy

Hi Susan,

Per our phone conversation today, please substitute the attached document for the statement I sent you by postal mail and just let me know if there are any problems opening the file

Thanks & Regards

Stephen Wolff

swolf98@austin.rr.com

"Only those who see the invisible
can do the impossible."

5/1/2006

Case Number: C15-06-065; 505 Deep Eddy
Contact: Susan Walker, 974-2202; 974-6536 (fax)
Public Hearing: May 8, 2006 Board of Adjustment

Name: Stephen Wolff
Address: 510 Deep Eddy Avenue

I am in favor
XX I object

Signature: Stephen A. Wolff 01-MAY-2006

Comments:

Honorable Board members, I hereby request denial of both variances because:

- 1) These variances, 600% increase in non-occupant participation and 56% increase in impervious cover for an employee parking lot, are excessive. These variances are not minor adjustments; they are radical modifications far beyond the intent of 25-2-900 and SF-3.
- 2) The excessiveness will not end with this variance; several other guidelines of 25-2-900 are likely to be exceeded if these variances are granted:
 - a. 25-2-900 (A) "commercial use that is accessory to residential use...".
 - This use will be exactly the opposite; residential use as accessory to commercial use. At this time, there is no indication of any intent to use this property primarily as a residence. Last week, I toured the property as truckloads of office furniture were moved in. There were no beds, dining furniture, kitchen furniture, etc. There was a bulletin board containing the required state and federal postings for workplaces. I was prohibited from taking any photographs during this tour.
 - b. 25-2-900 (D) "residential character maintained...".
 - No other residence in this neighborhood includes a parking lot.
 - c. 25-2-900 (E) "maximum 3 vehicle trips per day of customer traffic...".
 - This may be difficult to quantify, but easy to imagine it being exceeded.
- 3) The intent here is clearly to circumvent the SF-3 zoning guidelines to achieve Administrative and Business Office use that is prohibited in an SF-3 base district. I believe this request is before you because the applicant's request for rezoning to the appropriate classification is failing. That zoning change is overwhelmingly opposed by the neighborhood residents, it has been denied by City Staff, unanimously denied by ZAP, and it is well on its way to denial by City Council. The usage implied through that zoning change and these variances is in conflict with the Neighborhood Plan, which stipulates that the demarcation between the commercial and residential base districts is the alley to the south of this property.

***** I respectfully request that the Board recommend denial of both of these variances. *****